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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of	)	
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Indiana Utility Regulatory Commission	)	CC Docket No. 96-98
Petition for Delegation of Additional	)	NSD File No. L-99-82
Authority to Implement Number	)	DA 99-2456
Conservation Measures	)	

COMMENTS OF AT&T CORP.

Pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, AT&T Corp. ("AT&T") hereby submits its comments on the Indiana Utility Regulatory Commission's ("IURC") petition for additional authority to implement number conservation measures ("Petition").<sup>1</sup>

More than a third of the nation's state commissions have now filed petitions<sup>2</sup> seeking a broad delegation of power over number administration pursuant to the Commission's recent Pennsylvania Order.<sup>3</sup> On September 15, 1999, the Commission granted in part waiver requests

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<sup>1</sup> Indiana Utility Regulatory Commission Petition Delegation of Additional Authority To Implement Number Conservation Measures, NSD File No. L-99-82, filed October 21, 1999 ("Petition").

<sup>2</sup> As of the date of the instant pleading, at least nineteen state commissions have filed petitions seeking delegated authority over number administration. In addition to the instant petition, petitions have been filed by state commissions from California, Connecticut, Florida, Georgia, Iowa, Maine, Massachusetts, Missouri, Nevada, New Hampshire, New York, North Carolina, Ohio, Tennessee, Texas, Utah, Virginia and Wisconsin.

<sup>3</sup> In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area

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by the state commissions for California, Florida, Massachusetts and New York that sought authority that was substantively identical in large measure to that the IURC seeks here. Two weeks later, the Commission granted the Maine commission -- which sought relief from the alleged burdens of NPA proliferation in a state that has only one area code -- authority essentially identical to that granted in the September 15<sup>th</sup> waivers. On November 30, 1999, the Commission granted five additional state waiver requests, authorizing the state commissions for Connecticut, New Hampshire, Ohio, Texas, and Wisconsin to implement some or all of the same conservation measures permitted by the four original waivers.

Because the many state commission numbering petitions filed to date largely seek the same relief and raise substantively identical claims, AT&T will not burden the record by repeating the arguments it has offered in response to those previous waiver requests, but instead hereby incorporates into these comments by reference its prior pleadings concerning each of the state petitions, including those seeking to impose technology-specific overlays. In addition, AT&T hereby incorporates into this pleading by reference its pleadings addressing the Commission's recent Numbering Resource Optimization NPRM.<sup>4</sup>

In addition to seeking powers delegated in the ten previous waivers, the IURC requests forms of authority that the Commission expressly refused to grant in those decisions. The instant

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Codes 412, 610, 215, and 717, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009 (1998) ("Pennsylvania Order").

<sup>4</sup> Numbering Resource Optimization, Notice of Proposed Rulemaking, CC Docket No. 99-200, released June 2, 1999 ("NRO NPRM").

Petition offers no grounds on which the Commission can or should revisit its prior rulings, and no evidence that calls those earlier decisions into question. Accordingly, these requests should be denied outright.

First, the Petition seeks authority to use rationing "as an area code nears jeopardy," on the ground that this power might permit it to "delay[] the need for area code relief."<sup>5</sup> The Commission has repeatedly held, however, that rationing may not be used as a means to avoid timely NPA relief. The New York Waiver Order expressly refused to grant that state's commission the power to "adopt rationing measures prior to having decided on a specific plan for area code relief,"<sup>6</sup> while the Massachusetts Waiver Order observed that "rationing of NXX codes should only be for the express purpose of extending the life of the area code until the date of area code relief implementation."<sup>7</sup>

Second, the IURC requests power to require unassigned number porting ("UNP").<sup>8</sup> However, the Commission concluded less than three months ago in its prior waiver orders that UNP is "currently at too early a stage of development to order implementation," although carriers

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<sup>5</sup> Petition, p. 7.

<sup>6</sup> Order, New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 96-98, NSD File No. L-99-21, ¶ 32, released September 15, 1999 ("New York Waiver Order").

<sup>7</sup> Order, Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781 and 978 Area Codes, CC Docket No. 96-98, NSD File No. L-99-19, ¶ 41, released September 15, 1999 ("Massachusetts Waiver Order").

<sup>8</sup> Petition, p. 7.

may engage in UNP on a voluntary basis.<sup>9</sup> The IURC's petition does not even purport to offer any evidence that suggests the Commission should revisit this conclusion.

Third, the Petition requests "authority to set and enforce additional standards" relating to number administration.<sup>10</sup> This open-ended request exceeds the authority granted in any of the prior waivers. The Commission has repeatedly held that it would potentially jeopardize the integrity of the nation's telecommunications networks to permit individual states to set potentially incompatible standards for number administration. Moreover, the sheer vagueness of this request makes it impossible for the Commission to determine whether the IURC proposes to act in a manner consistent with the Communications Act or the Commission's rules, and such relief therefore cannot lawfully be granted.

The state numbering petitions granted to date strongly suggest that the Commission is prepared to grant to any state that requests it authority that, by the Commission's own admission, "goes beyond the parameters outlined in the [Pennsylvania Order]."<sup>11</sup> For example, the Commission based its grant of additional authority to the Maine commission on the fact that the 207 NPA was nearing exhaust "despite the existence of a high number of unused numbers in this code."<sup>12</sup> The Commission has long recognized, however, that because the current numbering

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<sup>9</sup> E.g., New York Waiver Order, ¶ 37; Massachusetts Waiver Order, ¶ 43.

<sup>10</sup> Petition, p. 5.

<sup>11</sup> E.g., Massachusetts Waiver Order, ¶ 6.

<sup>12</sup> Order, Maine Public Utilities Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 96-98, NSD File No. L-99-27, ¶ 5, released September 28, 1999.

system requires the assignment of numbers in blocks of 10,000, and requires wireline carriers to obtain an NXX code in every rate center they wish to serve (there are over 220 rate centers in Maine's single area code), CLECs will almost inevitably have a relatively large proportion of "unused numbers" when they enter the market.<sup>13</sup>

The rationale underlying the waiver granted to the Maine commission thus potentially applies with equal force to virtually every NPA. Moreover, because no state numbering petition filed to date provides information as to how the petitioning state commission proposes to implement programs such as number pooling or number reclamation, the potential for widely varying standards -- or even outright conflicts among the states -- is high.<sup>14</sup> In effect, the Commission appears to have modified its longstanding numbering rules and policies without adequate prior notice, and without offering an adequate explanation for abandoning its previous conclusion that permitting state commissions to proceed with numbering administration measures "on a piecemeal basis" could "jeopardiz[e] telecommunications services throughout the country."<sup>15</sup>

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<sup>13</sup> See, e.g., NRO NPRM, ¶ 20.

<sup>14</sup> For example, while the Commission's state numbering waiver orders urge state commissions to adhere to "industry adopted thousands-block pooling guidelines," it permits them to modify those guidelines after "consult[ing] with the industry." E.g., Order, Petition of the California Public Utilities Commission for Delegation of Additional Authority, CC Docket No. 96-98, NSD File No. L-98-136, ¶ 14, released September 15, 1999 ("California Waiver Order"). Other aspects of the numbering waivers granted to date are similarly unclear as to precisely what constraints the Commission imposed on state commissions' discretion to adopt state-specific numbering requirements.

<sup>15</sup> Pennsylvania Order at 19022 ¶ 21. As AT&T has stated previously, it does not contend that state commissions are incapable of crafting workable numbering policies, but rather

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AT&T already has begun to work with the state commissions that have obtained numbering waivers, and intends to continue to cooperate fully in their efforts to implement thousands block pooling and the other measures the Commission recently authorized. AT&T also intends to participate in similar efforts by other state commissions that may obtain grants of numbering authority. Nevertheless, AT&T continues to urge the Commission to move forward promptly with the adoption of national conservation standards, and to limit the number of states to which it grants numbering waivers. As the state commissions' *seriatim* requests for delegated authority make clear, the circumstances prompting the instant petition are not unique to any one state, or even to a small group of states, but are national issues for which national solutions are essential. If the Commission were to grant authority over number conservation to each state that has requested (or that is likely to request) that power, the integrity of the NANP could be threatened by a myriad of competing and conflicting standards, and the timeline for implementing national number optimization policies would be significantly lengthened because carriers would be forced to devote their limited resources to developing and implementing multiple state trials.<sup>16</sup>

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that the decisions of dozens of autonomous regulatory bodies will inevitably diverge from – and even directly conflict with – one another.

<sup>16</sup> Although the numbering waivers granted to date express the Commission's willingness to ensure that state commissions adhere to the "competitive neutrality" requirement and other provisions of its rules, the reality is that carriers seeking to compete in rapidly changing telecommunications markets can ill afford the delay and uncertainty that inevitably result from disputes over varying state-created numbering policies.

Finally, it is imperative that the Commission make clear in any order delegating authority over numbering that a state may not refuse to implement needed NPA relief while it undergoes preparations for number conservation measures that it hopes may eventually permit it to extend the life of NPAs. Despite the Commission's explicit warning that the numbering waivers it has granted to date "are not intended to allow [state commissions] to engage in number conservation measures to the exclusion of, or as a substitute for, unavoidable and timely area code relief,"<sup>17</sup> some states already have suggested that they intend to utilize rationing to artificially extend the life of existing NPAs while they prepare for pooling or other measures. Although the Commission's prior waiver decisions admonished that "[u]nder no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for a want of numbering resources,"<sup>18</sup> there is a real and present danger that that situation will occur.<sup>19</sup> In any subsequent numbering waiver that it may grant, the Commission should clarify that it does not -- and did not previously -- intend to permit state commissions to deny numbering resources to carriers during any interim period while a state prepares to implement optimization measures.

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<sup>17</sup> E.g., California Waiver Order, ¶ 9.

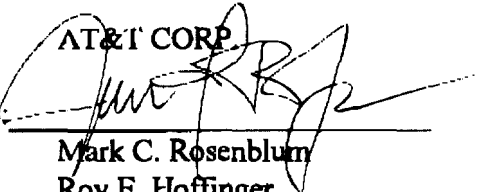
<sup>18</sup> E.g., id.

<sup>19</sup> See generally Letter from Tina S. Pyle, MediaOne Group, Inc., to Yog R. Varma, Deputy Bureau Chief, Common Carrier Bureau, Federal Communications Commission (September 29, 1999) (documenting MediaOne's inability to obtain numbering resources necessary to provide residential wireline telephone service to "over 290,000 additional households").

## CONCLUSION

AT&T urges the Commission to establish national conservation standards as expeditiously as possible to provide necessary relief to all states, carriers, and consumers on an equitable basis; and to act on the instant petition in a manner consistent with AT&T's comments and reply comments concerning prior state commission numbering waiver requests and the NRO NPRM.

Respectfully submitted,

By:   
AT&T CORP.  
Mark C. Rosenblum  
Roy E. Hoffinger  
James H. Bolin, Jr.  
295 North Maple Avenue, Room 1130M1  
Basking Ridge, NJ 07920  
(908) 221-4617

Douglas I. Brandon  
Vice President – External Affairs  
1150 Connecticut Avenue, N.W., Suite 400  
Washington, DC 20036  
(202) 223-9222

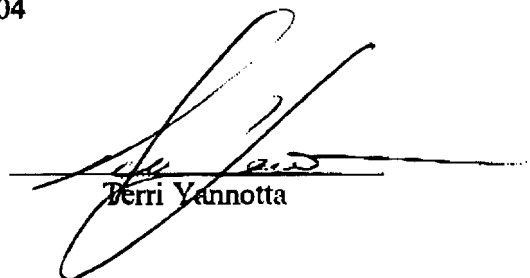
December 3, 1999



**CERTIFICATE OF SERVICE**

I, Terri Yannotta, do hereby certify that on this 3<sup>rd</sup> day of December, 1999, a copy of the foregoing "Comments of AT&T Corp." was served by U.S. first-class mail, postage prepaid to the party listed below:

Nikki Shoultz  
General Counsel  
Indiana Utility Regulatory Commission  
302 West Washington Street  
Suite E306  
Indianapolis, IN 46204



Terri Yannotta

December 3, 1999